



H.R. 1 Conference Report – Implementing Recommendations of the 9/11 Commission Act of 2007

Background

On September 11, 2001, America was attacked by Al Qaeda terrorists who coordinated the hijacking of four commercial airliners; flying two of them into the World Trade Center, one into the Pentagon, and failing in their final attack as the passengers grounded the fourth plane into a field in Shanksville, Pennsylvania. This unparalleled terrorist attack resulted in 2,973 fatalities.

In response to these horrific attacks, the Republican Congress enacted over 70 laws to enhance our abilities in the War on Terror. Major legislation signed by the President or passed by Congress after September 11th included:

- The Homeland Security Act of 2002 (PL 107-296) – This legislation consolidated the homeland security missions of federal agencies within the Department of Homeland Security.
- The USA Patriot Act (PL 107-56) – This legislation enhanced the abilities of law enforcement and intelligence agencies to monitor and disrupt terrorist networks. The Patriot Act also established new crimes and penalties to counter domestic and foreign terrorists.
- Intelligence Reform and Terrorism Prevention Act of 2004 (PL 108-458) – This legislation consolidated the intelligence community and established a Director of National Intelligence.
- Faster and Smarter Funding for First Responders Act of 2005 (H.R. 1544) - This legislation passed the House of Representatives and sought to provide The Republican MTR will increase funding for immigration law enforcement efforts and will increase funds for states and localities that incarcerate criminal illegal aliens through the State Criminal Alien Assistance Program in a deficit-neutral manner. better funding for first responders.
- REAL ID Act - This legislation would require minimal standards any driver's license or state-issued identifications that are used for federal purposes.
- SAFE Port Act (PL 109-347) – This legislation set new standards for increased screening of cargo entering into the United States.

Additionally, Congress authorized (Title VI of PL 107-306) the National Commission on Terrorist Attacks on the United States (H.R. 4628), commonly known as the 9-11 Commission.

On July 22, 2004, the Commission released its public report, which consisted of 41 recommendations. Of those recommendations, the Republican Congress and the President enacted (or were in the process of enacting) 39.

Upon release of the 9/11 Commission's report, Democrats demanded the full implementation of all 41 recommendations. The Republican Congress and the President strongly rejected (and continue to reject) two of the recommendations (described below) because of their dangerous policy implications:

Recommendation #32: Making the Department of Defense the lead for all paramilitary operations:

- This recommendation would transfer the responsibility for paramilitary operations from the Central Intelligence Agency to the U.S. Special Operations Command. The CIA is responsible for obtaining human intelligence sources throughout the world. These sources are used in the planning of paramilitary operations and often in the operations themselves. Removing operational control from the CIA would not only de-centralize this important activity, but would also limit contact with vital sources of intelligence.
- In responding to this recommendation, Secretary Rumsfeld and CIA Director Goss stated in a letter to the President: "We do not believe change is required in the responsibility of the CIA for foreign intelligence collection and covert action or activities, or that of the DoD for traditional military activities."

Recommendation #33: Declassify the top-line intelligence budget:

- The intelligence budget outlines the key funding priorities of America's intelligence community. With few exceptions, these figures have been classified since President Truman because of the sensitive nature of the programs the budget funds. Republicans believe that unilaterally releasing the top-line of the budget is dangerous to our national security interests.
- In a 1988 Supreme Court ruling (Eagan vs U.S. Navy), the Court found that the sole classification authority for national security defense information rests with the President as Commander in Chief. This clearly demonstrated that Congress is NOT a classification authority and, therefore, it would not be within Congress' Constitutional authority to "declassify" duly classified information.

**Note: H.R. 1 did not attempt to address implementing recommendations #32 or #33. The Conference Report does contain language that would make public the top-line of the intelligence budget (see Title VI).*

A number of contentious issues were debated during conference negotiations on H.R. 1. Republicans strenuously objected to the provision extending collective bargaining rights to TSA screeners, which would have hindered TSA's ability to respond to national security threats. Ultimately, this provision was withdrawn from the conference report. However, the final version of the conference report contains the provision removing the 45,000 full-time employee cap on TSA's screener workforce.

Republicans also successfully added a provision granting civil immunity to ordinary Americans and authorized officials who report suspicious activity, despite Democrats objections. This provision is in response to an incident last year when airline passengers reported the suspicious behavior of a group of Muslim Imams. The Imams sued the witnesses.

Concerns have also been raised in regards to provisions relating to disclosure of the intelligence budget. Under a presidential veto threat, this provision was scaled back so that the president now must only publicly disclose the top-line of the budget.

Floor Situation

The Conference Report is being considered on the floor under a structured rule. The rule:

- Waives all points of order against the conference report and its consideration.

The House of Representatives passed H.R. 1 on January 9, 2007 by a vote of 299 to 128. The Senate passed its version, S. 4, on March 13, 2007, by a vote of 60 to 38. The Senate appointed conferees on July 9, 2007. The House appointed conferees on July 17, 2007.

The Conference Report is expected to be considered on the floor on July 27, 2007.

Summary

Title I – Homeland Security Grants

This title addresses recommendation #25 of the 9/11 Commission. Recommendation #25 calls for homeland security funds to be granted based on a risk formula and not a per-capita formula.

- Reforms the Department of Homeland Security's grant program so that terrorism-related grants are distributed based more on risk (as opposed to a population-based formula), codifying the framework for applying for and receiving grants under the State Homeland Security Grant Program (SHSGP). States currently receive a minimum of 0.75 percent of homeland security grant funding. The conference report guarantees a minimum of 0.375 percent in FY2008, which would decline to 0.35 percent by FY2012. Directly eligible tribes would receive a minimum of 0.1 percent while territories receive a minimum of 0.8 percent.

Note: The House-passed version guaranteed a minimum of 0.25 percent of homeland security grant funding for each State.

- Codifies the Urban Area Security Initiative (UASI), allocating funding based on the threat, vulnerability, and consequences of a terrorist attack as well as the effectiveness of each urban area's proposal.
- Requires that not less than 25 percent of grant funding is used for Law Enforcement Terrorism Prevention Program (LETPP) activities.

Note: The provision relating to funding for LETPP was not included in the House-passed bill.

- Authorizes \$950 million for SHSGP annually through FY2012. It authorizes \$850 million for UASI in FY2008, increasing to \$1.3 billion by FY2012.
- Incorporates language prohibiting grant funding for social and recreational purposes. It also includes reporting and auditing requirements to ensure oversight and accountability.

Title II – Emergency Management Performance Grants

- Reauthorizes Emergency Management Performance Grants (EMPG) at \$400 million for FY2008, which would increase to \$950 million in FY2012.

Note: EMPG is an all-hazards grants program.

Title III – Interoperability for First Responders

- Requires the Secretary of DHS to establish the Improve Communications for Emergency Response Grant Program to fund grants to states and regions in order to improve interoperable emergency communications.

Title IV – Incident Command System

- Enhances current personnel and resource requirements to ensure a coordinated Federal response.
- Directs FEMA to work with State, local, and tribal governments and emergency management officials to develop the model standards and guidelines for credentialing and typing to assist agencies in meeting their responsibilities under the National Response Plan.

Title V – Intelligence and Information Sharing

- Homeland Security Information Sharing Enhancement – The bill requires the development of criteria for the Homeland Security Advisory System based on information sharing on protective measures and countermeasures. In addition to integrating DHS's intelligence components, it requires information sharing and

intelligence integration with State, local, tribal, and the private sector. It also enables agencies to give incentives as a reward for successful information sharing.

- Homeland Security Information Sharing Partnerships – The bill creates an initiative to provide state, local, and tribal fusion centers with DHS support and resources.
- Homeland Security Intelligence Offices Reorganization – The bill elevates the DHS Chief Intelligence Officer from Assistant Secretary to Under Secretary. The position would be subject to Senate confirmation.

Title VI – Congressional Oversight of Intelligence

- Requires the President to publicly disclose the top line of the intelligence budget. Starting in FY2009, the President can waive or delay this disclosure for national security reasons, as long as a detailed explanation is provided to the House and Senate Intelligence Committees.

Note: This provision was not included in the House-passed version of the bill. After negotiations on this section, the President withdrew his veto threat.

Title VII – Strengthening Efforts to Prevent Terrorist Travel

- Reforms to the Visa Waiver Program to require countries that meet certain security requirements, to meet tougher standards for reporting lost and stolen passports within a strict time limit; to accept within 3 weeks repatriation of any citizen who is ordered removed from the United States; and to share information regarding nationals who are traveling to the United States. The Secretary may also consider that nation's airport security standards, its assistance with an air marshal program, and the standards of passports and travel documents issued by the country. Finally, the bill mandates the DHS Secretary has established a U.S. VISIT exit system for air travel before the Visa Waiver expansion can take place. It also includes a pilot program for a State to use enhanced driver's licenses that would be valid for a U.S. citizen's admission to the U.S. from Canada and Mexico.

Note: These two provisions were not included in the House-passed version.

Title VIII – Privacy and Civil Liberties

This title addresses recommendation #24 of the 9/11 Commission. Recommendation #24 calls for the creation of a Privacy and Civil Liberties Oversight Board to ensure that new policies and laws adopted to ensure national security were not in violation of civil liberties.

In response to the 9/11 recommendations and the Intel Reform Act, President Bush signed an executive order establishing the President's Board on Safeguarding Americans' Civil Liberties on August 27, 2004. The purpose of this board is to ensure that the policies and programs enacted to

guarantee the safety of this country do not violate privacy and civil rights laws. The President requested an annual budget of \$750,000 and Congress approved the budget at \$1.5 million.

The board is comprised of 5 members, with one member serving as the chairman. The members of the board are subject to confirmation of the Senate.

- Removes the Privacy and Civil Liberties Board from the Executive Office of the President and makes it an independent agency with subpoena power. The Board's 5 members would be subject to Senate confirmation.

Note: This will create an agency independent of the President with subpoena power. This could discourage tough action against terrorism and will tie up enormous amounts of administration officials' time.

Title IX – Private Sector Preparedness

- Permits the development of guidance and recommendations that identify best practices to foster private sector preparedness. It requires the establishment of a voluntary program to certify private sector entities on their level of preparedness.

Note: The House-passed bill required the Secretary of DHS to establish a program to enhance private sector preparedness for acts of terrorism and other emergencies and disasters. This measure would have required a Sarbanes-Oxley type regime for every industry with regard to preparedness standards.

Title X –Critical Infrastructure Protection

- Requires DHS to maintain a National Asset Database and a prioritized critical infrastructure list. The Secretary is also to complete an annual report to Congress on a vulnerability assessment of the critical infrastructure (including levees) of the United States. Each vulnerability assessment shall contain any actions or countermeasures proposed or recommended by the Secretary to address security concerns covered in the assessment.

Note: The prioritized critical infrastructure list replaces the National At-Risk Database called for by the House-passed bill.

Title XI – Biological and Nuclear Detection

- Authorizes a National Biosurveillance Integration Center within the Department to enhance national awareness and to alert Federal, State, and local entities during a biological incident.
- Requires the Secretaries of Homeland Security, State, Defense, Energy, the Attorney General, and the National Intelligence Director to develop and implement the global nuclear detection architecture.

Note: There was no similar section included in the House-passed bill.

Title XII – Transportation Security Planning and Information Sharing

- Requires the establishment of a Transportation Security Information Sharing Plan to improve information and intelligence sharing.
- Expands the National Domestic Preparedness Consortium to include the National Disaster Preparedness Training Center and the Transportation Technology Center.

Note: The House-passed version did not include language regarding the National Domestic Preparedness Consortium.

****Note: This title also includes the provision granting civil immunity to ordinary Americans and authorized officials that report suspicious activity.*

Title XIII – Transportation Security Enhancements

- Grants the Secretary enforcement authority over surface transportation entities through civil penalties for violations of DHS regulations and orders.
- Authorizes an additional 100 Transportation Security Administration (TSA) Surface Transportation Security Inspectors, who are responsible for enforcing public agency compliance with DHS security regulations.
- Requires DHS to increase the number of explosive detection canine teams, which requires the expansion of TSA's National Explosives Detection Canine Team Training Center.

Note: The House-passed version did not include these provisions.

Title XIV – Public Transportation Security

- Requires the Secretary to develop a National Strategy for Public Transportation Security, and it requires high-risk public transit agencies to prepare and implement security plans.
- Includes name-based threat assessments for background checks on public transportation front-line employees. It also includes whistleblower protections for public transportation employees.

Note: These provisions were not included in the House-passed version.

Title XV – Surface Transportation Security

- Provides specific criteria for the development of the National Strategy for Railroad Transportation Security, and requires the Secretary to conduct a nation-wide, system-wide security assessment of the rail system.
- Includes name-based threat assessments for background checks on railroad workers.
- Establishes two grant programs for rail security upgrades – one for freight and passenger rail (\$1.2 billion over 4 years) and one for AMTRAK (\$650 million over 4 years). It also includes \$180 million in funding authority for fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor.
- Authorizes \$87 million over four years in over-the-road bus security grants.

Title XVI – Aviation

- Requires 100 percent screening of cargo carried on passenger aircrafts within three years. It provides some flexibility for TSA to meet this mandate.
- Mandates that TSA develop and implement a program to deploy blast-resistant cargo containers on planes.
- Removes the 45,000 full-time employee cap on TSA's screener workforce.

Title XVII – Maritime Cargo

- The bill requires all seaborne cargo containers brought to the U.S. be scanned by non-intrusive imaging equipment and radiation equipment by July 1, 2012.

Note: In the 109th Congress, House Republicans passed the SAFE Port Act (H.R. 4954). The bill was based upon a layered security strategy that builds on existing initiatives to improve port and cargo security both abroad and at home.

The technology is not available to scan the 11 million imported containers that enter our ports each year. Currently, 660,000 of these containers are scanned, including all of those marked as high risk. An amendment to H.R. 4954 offered by Rep. Brown-Waite, and approved in committee, requires the Secretary of Homeland Security to continuously evaluate technologies for their application to port and cargo security.

The Container Security Initiative is currently in place in over 35 major international seaports to pre-screen shipping containers before they are loaded and shipped to the United States.

Title XVIII – Preventing Weapons of Mass Destruction Proliferation and Terrorism

This title addresses recommendation #12 of the 9/11 Commission. Recommendation #12 calls for the maximum effort of the United States government to prevent terrorists from acquiring

WMDs. In the House passed version of H.R. 1, this section was Title XII.

- Repeals conditions of the Cooperative Threat Reduction (CTR) program on assistance to Russia and former Soviet Union states.
- Asserts that the President should expand and strengthen the Proliferation Security Initiative (PSI).

**Note: This provision was the subject of the Republican Motion to Recommit H.R. 1, which failed by a recorded vote of 198 - 230 ([Roll no. 14](#)). The House passed version contained language that emphasized that the President should work with the United Nations Security Council to authorize the PSI under international law, which the MTR tried to strike. President Bush announced the creation of the PSI on May 31, 2003, which is consistent with the 9/11 Commission's recommendations. It made little sense and raised concerns to seek legal authority under the UN for the PSI. House Republicans were opposed to that provision.*

- Requires the Secretaries of State and Defense to submit a defined budget for the PSI beginning with the budget submissions for their departments for fiscal year 2009.
- Authorizes the President to provide assistance to any country that cooperates with the US and with other countries allied with the US to prevent the transportation of items of proliferation concern in its national territory or airspace or in vessels under its control or registry. Assistance authorized may not be provided until the consent of Congress is granted and assistance may be provided to a country for no more than 3 years.
- Permits additional appropriations to the Department of Energy National Nuclear Security Administration for the fiscal year 2007 to accelerate, expand, and strengthen:
 - The Global Threat Reduction Initiative (GTRI);
 - The Nonproliferation and International Security (NIS) program;
 - The International Materials Protection, Control and Accounting (MPC&A) program; and,
 - The Research and Development program.
- Establishes within the Executive Office of the President the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. The office is responsible for:
 - Serving as the advisor to the President on all matters relating to the prevention of weapons of mass destruction (WMD) proliferation and terrorism;
 - Formulating strategies and policies for the US to prevent WMD proliferation and terrorism;
 - Coordinating inter-agency efforts to implement the strategy and policies of the office;

- Conduct oversight and evaluation of efforts to prevent WMD proliferation and terrorism by relevant agencies and departments; and
- Develop a budget for programs and initiative that seek to prevent WMD proliferation and terrorism.

**Note: The Under Secretary of State for Arms Control and International Security already performs these duties.*

- Establishes the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. The Commission would:
 - assess current activities, initiatives, and programs to prevent WMD proliferation and terrorism;
 - provide a clear and comprehensive strategy and concrete recommendations for such activities, initiatives, and programs;
 - be composed of 9 members appointed by the President, of which the majority leader of the Senate and Speaker of the House recommend 2 each, and minority leaders of the Senate and House recommend 1 each.

**Note: This does nothing but create a blue-ribbon panel when the State Department already has a robust effort in this matter.*

Title XIX – International Cooperation of Antiterrorism Technologies

No similar title was not included in H.R. 1. The title amends Title III of the Homeland Security Act of 2002 by creating an office to promote cooperation between entities of the United States and its allies in the global war on terror.

- Creates a Science and Technology Homeland Security International Cooperative Programs Office within the Science and Technology Directorate of the Department. The Director would be responsible for:
 - Promoting cooperative research between the U.S. and its allies on homeland security technologies;
 - Developing strategic priorities for international cooperative activity and addressing them through agreements with foreign entities;
 - Facilitating the matching of U.S. entities engaged in homeland security issues with appropriate foreign research partners;
 - Ensuring funds and resources expended for international cooperative activity are equitably matched; and,

- Coordinating the activities of the office with other relevant Federal agencies.

Title XX 9/11 Commission International Recommendations

Title XX is very similar to Title XIV of the House passed version of H.R. 1. However, the Conference Report adds a pilot program, authorized at \$2 million, for translation of selected Arabic and Persian service broadcasts undertaken by the Broadcasting Board of Governors for purposes of quality control and oversight.

This title addresses recommendations #1-10 of the 9/11 Commission. Recommendation #1-10 calls for the maximum effort of the United States government to promote moral leadership and democracy throughout the world.

This title focuses on the 9/11 Commissions' recommendation that "[e]ducation that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamic terrorism."

The major provisions in this section include:

- Authorize the President to establish an International Arab and Muslim Youth Opportunity Fund that may be operated as a separate fund in the Treasury or through an international organization or international financial institution. The purpose of this fund is to improve the educational environment in Arab and predominantly Muslim countries.

**Note: The Intel Reform Act created the International Youth Opportunity Fund (Section 7114).*

- Authorize a program through fiscal year 2008 that gives grants to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations for the purpose of providing full or partial merit-based scholarships to students from lower-income and middle-income families.

** Note: Amends the Intel Reform Act to provide funding for 1 more year of the pilot program the Act created (Section 7113).*

- Create a Middle East Foundation funded through the Middle East Partnership Initiative. The Middle East Foundation will be designated by the Secretary of State and will be an appropriate private, nonprofit organization that is organized or incorporated under the laws of the United States.

**Note: Repeals Section 534(k) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (H.R. 3057) that operates the Middle East Foundation endowed at \$35 million.*

Title XXI – Advancing Democratic Values

This section contains a modified version of Title VI of the Foreign Relations Authorization Act (H.R. 2601).

- Establishes new Democracy Liaison Officers and requires identification of an office to support them in the Department of State;
- Endorses development of long-term strategies for democracy promotion and human rights protection in non-democratic and democratic transition countries; and,
- Requires the Secretary of State to enhance personnel training on democracy promotion and human rights protection.

Title XXII – Interoperable Emergency Communications

This title will make changes to the Public Safety Interoperable Communications (PSIC) Grant Program, which was established by the Deficit Reduction Act of 2006 (PL 109-171). There was no comparable legislation in the House passed version of H.R. 1.

- The Assistant Secretary, in consultation with the Secretary of the Department of Homeland Security, is required to:
 - Establish and create a grant program to assist public safety agencies in the planning and coordination associated with interoperable communications equipment, software, and system.
- Modifies how grant recipients may use funds that are awarded under PSIC.
- The FCC is required to conduct an assessment of emergency communications back-up systems.

Title XXIII – Emergency Communications Modernization

There was no comparable legislation in the House passed version of H.R. 1. The title deals with attempting to make improvements to the 911 services in the country.

- The National Telecommunications and Information Administration is required under this title to create pilot projects to enhance the communications abilities of emergency medical service providers.

**Note: There was no comparable provision in the House passed version of H.R. 1.*

**Note: Funding for these projects will come from the Digital Television Transition and Public Safety Fund.*

Title XXIV – Miscellaneous Provisions. There was no corresponding section in the House passed version of H.R. 1.

- Strengthens the role of the Under Secretary for Management by designating this official as the Department's Chief Management Officer and principal advisor to the Secretary on management issues.
- Requires the Department of prepare a Quadrennial Review that includes a homeland security strategy.

Additional Information:

[9/11 Commission Report](#)

[Final Report on 9/11 Commission Recommendations](#)

[Legislative Digest on H.R. 1](#)

Cost

The Congressional Budget Office had not scored this legislation at the time of publication.

Additional Views

There was no SAP available at the time of publication.

Staff Contact:

For questions or further information contact Shea Loper or Chris Vieson at (202) 226-2302.